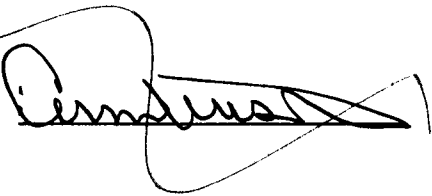


By



S.B. No. 939

A BILL TO BE ENTITLED

AN ACT

relating to the safe use and regulation of fireworks.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The heading of Section 240.904, Local Government Code, is amended to read as follows:

Sec. 240.904. REGULATION OF RESTRICTED [CERTAIN] FIREWORKS.

SECTION 2. ^{Subdivision (1), Subsection (a),} Section 240.904(a)(1), Local Government Code, is amended to read as follows:

(1) "Restricted fireworks [~~Aerial--fireworks~~]" means only those items classified under 49 C.F.R. Sec. 173.100(r)(2) (10-1-86 edition), as "skyrockets with sticks" and "missiles with fins" [~~other-pyrotechnic-devices-that-have-fins-or-rudders-for-the purpose-of-achieving-aerodynamic--flight,--including--devices--that would-be-considered-a-missile-or-a-rocket~~].

SECTION 3. ^{Sub} Sections ~~240.904~~ (c), (f), and (g), ^{Section 240.904,} Local Government Code, are amended to read as follows:

(c) Upon a determination under this section that drought conditions exist within all or part of a specified county, the commissioners court of such county by order may prohibit or restrict the sale or use of restricted [~~certain-aerial~~] fireworks in all or a portion of the unincorporated area of the county where drought conditions have been determined to exist. In addition, during the December fireworks season, the commissioners court of a county by order may restrict or prohibit the sale or use of

5-19-99

4-15-99
Cmnd 4/15/99

4-23-99
W 423-4

1 restricted [~~certain--aerial~~] fireworks in specified areas when
2 conditions on rural acreage in the county not under cultivation for
3 a period of at least 12 months are determined to be extremely
4 hazardous for the danger of fire because of high grass or dry
5 vegetation.

6 (f) The county may designate one or more areas of
7 appropriate size and accessibility in the county as safe areas
8 where the use of restricted [~~aerial~~] fireworks is not prohibited.
9 The safe area may be provided by the county, a municipality within
10 the county, or an individual, business, or corporation. A safe
11 area may be designated in and provided in the geographic area of
12 the regulatory jurisdiction of a municipality if the activity
13 conducted in the safe area is authorized by general law or a
14 municipal regulation or ordinance. An area is considered safe if
15 adequate public safety and fire protection services are provided to
16 the area. A county, municipality, individual, business, or
17 corporation is not liable for injuries or damages resulting from
18 the designation, maintenance, or use of the safe area.

19 (g) A person selling any type of [~~aerial~~] fireworks,
20 including restricted [~~or-other~~] fireworks, in a county that has
21 adopted an order under Subsection (c) shall, at every location at
22 which the person sells fireworks in the county, provide reasonable
23 notice of the order and reasonable notice of any location
24 designated under Subsection (f) as a safe area.

25 SECTION 4. Article 5.43-4, Insurance Code, is amended by
26 adding Section 16B to read as follows:

27 Sec. 16B. FIREWORKS SAFETY AND EDUCATION PROGRAM. (a) The 2/3

1 commissioner shall establish a fireworks safety and education
2 program. The program shall provide information relating to the
3 proper and safe use of fireworks and the dangers of the improper
4 use of fireworks.

5 (b) A program established under this section shall be
6 administered by the advisory council established under Section 5B
7 of this article. The program may include any method of
8 communicating the need for safe use of fireworks and the dangers of
9 improper use. A program the advisory council proposes to present
10 must be approved by the commissioner.

11 (c) In order to fund the program established under this
12 section, the holder of the following licenses shall pay a fee, in
13 addition to any other license fee, in the following amounts:

14 (1) the holder of a retail permit issued under Section
15 8 of this article--\$10; and

16 (2) the holder of a manufacturer's, distributor's, or
17 jobber's license issued under Section 6 of this article--\$250.

18 (d) Funds collected under Subsection (c) of this section may
19 be used only by the commissioner for the purposes of this section.

20 SECTION 5. (a) This Act takes effect September 1, 1999.

21 (b) Section 16B, Article 5.43-4, Insurance Code, as added by
22 this Act, applies only to the issuance of or renewal of a retail
23 permit or manufacturer's, distributor's, or jobber's license issued
24 or renewed on or after September 1, 1999.

25 SECTION 6. The importance of this legislation and the
26 crowded condition of the calendars in both houses create an
27 emergency and an imperative public necessity that the

1 constitutional rule requiring bills to be read on three several
2 days in each house be suspended, and this rule is hereby suspended.

BILL ANALYSIS

Senate Research Center
76R5707 CAG-F

S.B. 939
By: Armbrister
Intergovernmental Relations
4/5/1999
As Filed

DIGEST

Currently, Texas law authorizes the commissioners court of a county to prohibit the use of aerial fireworks, upon determination that drought conditions exist. During the 72nd Legislature, legislation authorizing counties to prohibit or restrict the use of skyrockets with sticks and missiles passed. Since passage of this legislation, the counties and fireworks industry agree that changes are necessary to regulate more stringently ability of all counties to prohibit the use and sale of certain aerial fireworks during drought conditions. In 1997, H.B. 2049 authorized the Texas Forest Service to determine if a county faced drought conditions passed. Drought conditions are measured by objective scientific information and the use of the Keetch-Byram Index, a widely accepted method for measuring the lack of moisture in the soil. S.B. 939 would allow a county to prohibit or restrict the sale or use of certain fireworks, and would also create a Fireworks Safety and Education Program to be approved by the commissioner of insurance and to be funded by additional fees collected from the retailer, manufacturer, distributor, and jobber's licenses.

PURPOSE

As proposed, S.B. 939 prohibits the sale or use of certain restricted fireworks, and creates a fireworks safety and education program.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 240.904, Local Government Code, as follows:

Sec. 240.904. New heading: REGULATION OF RESTRICTED FIREWORKS.

SECTION 2. Amends Section 240.904(a)(1), Local Government Code, to redefine "restricted fireworks." Deletes text regarding pyrotechnic devices.

SECTION 3. Amends Sections 240.904(c), (f), and (g), Local Government Code, to authorize the commissioners court by order to prohibit or restrict the sale or use of restricted fireworks, rather than certain aerial fireworks, in all or a portion of the unincorporated area of the county. Requires a person selling any type of fireworks, including restricted fireworks, in a county that has adopted an order under Subsection (c) to provide notice of any location designated as a safe area. Makes conforming and nonsubstantive changes.

SECTION 4. Amends Article 5.43-4, Insurance Code, by adding Section 16B, as follows:

Sec. 16B. FIREWORKS SAFETY AND EDUCATION PROGRAM. Requires the commissioner of insurance (commissioner) to establish a fireworks safety and education program (program). Requires the program to provide information relating to the proper and safe use of fireworks and the dangers of the improper use of fireworks. Requires a program established under this section to be administered by the advisory council established under Section 5B of this article. Authorizes the program to include any method of communicating the need for safe use of fireworks and the dangers of improper use. Requires the commissioner to approve a program the advisory council proposes to present. Requires the holder of a certain license to pay a fee, in addition to any other license fee, in a certain amount, in order to fund the program established under this section. Authorizes funds collected under Subsection (c) of this section to be used only

by the commissioner for purposes of this section.

SECTION 5. Effective date: September 1, 1999. Provides that Section 16B, Article 5.43-4, Insurance Code, as added by this Act, applies only to the issuance of or renewal of a retail permit or manufacturer's, distributor's, or jobber's license issued or renewed on or after September 1, 1999.

SECTION 6. Emergency clause.

1-1 By: Armbrister S.B. No. 939
1-2 (In the Senate - Filed March 5, 1999; March 8, 1999, read
1-3 first time and referred to Committee on Intergovernmental
1-4 Relations; April 15, 1999, reported favorably by the following
1-5 vote: Yeas 5, Nays 0; April 15, 1999, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the safe use and regulation of fireworks.

1-9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-10 SECTION 1. The heading of Section 240.904, Local Government
1-11 Code, is amended to read as follows:

1-12 Sec. 240.904. REGULATION OF RESTRICTED [CERTAIN] FIREWORKS.

1-13 SECTION 2. Subdivision (1), Subsection (a), Section 240.904,
1-14 Local Government Code, is amended to read as follows:

1-15 (1) "Restricted [Aerial] fireworks" means only those
1-16 items classified under 49 C.F.R. Sec. 173.100(r)(2) (10-1-86
1-17 edition), as "skyrockets with sticks" and "missiles with fins"
1-18 [other-pyrotechnic-devices--that--have--fins--or--rudders--for--the
1-19 purpose--of--achieving--aerodynamic--flight,--including-devices--that
1-20 would-be-considered-a-missile-or-a-rocket].

1-21 SECTION 3. Subsections (c), (f), and (g), Section 240.904,
1-22 Local Government Code, are amended to read as follows:

1-23 (c) Upon a determination under this section that drought
1-24 conditions exist within all or part of a specified county, the
1-25 commissioners court of such county by order may prohibit or
1-26 restrict the sale or use of restricted [certain--aerial] fireworks
1-27 in all or a portion of the unincorporated area of the county where
1-28 drought conditions have been determined to exist. In addition,
1-29 during the December fireworks season, the commissioners court of a
1-30 county by order may restrict or prohibit the sale or use of
1-31 restricted [certain--aerial] fireworks in specified areas when
1-32 conditions on rural acreage in the county not under cultivation for
1-33 a period of at least 12 months are determined to be extremely
1-34 hazardous for the danger of fire because of high grass or dry
1-35 vegetation.

1-36 (f) The county may designate one or more areas of
1-37 appropriate size and accessibility in the county as safe areas
1-38 where the use of restricted [aerial] fireworks is not prohibited.
1-39 The safe area may be provided by the county, a municipality within
1-40 the county, or an individual, business, or corporation. A safe
1-41 area may be designated in and provided in the geographic area of
1-42 the regulatory jurisdiction of a municipality if the activity
1-43 conducted in the safe area is authorized by general law or a
1-44 municipal regulation or ordinance. An area is considered safe if
1-45 adequate public safety and fire protection services are provided to
1-46 the area. A county, municipality, individual, business, or
1-47 corporation is not liable for injuries or damages resulting from
1-48 the designation, maintenance, or use of the safe area.

1-49 (g) A person selling any type of [aerial] fireworks,
1-50 including restricted [or--other] fireworks, in a county that has
1-51 adopted an order under Subsection (c) shall, at every location at
1-52 which the person sells fireworks in the county, provide reasonable
1-53 notice of the order and reasonable notice of any location
1-54 designated under Subsection (f) as a safe area.

1-55 SECTION 4. Article 5.43-4, Insurance Code, is amended by
1-56 adding Section 16B to read as follows:

1-57 Sec. 16B. FIREWORKS SAFETY AND EDUCATION PROGRAM. (a) The
1-58 commissioner shall establish a fireworks safety and education
1-59 program. The program shall provide information relating to the
1-60 proper and safe use of fireworks and the dangers of the improper
1-61 use of fireworks.

1-62 (b) A program established under this section shall be
1-63 administered by the advisory council established under Section 5B
1-64 of this article. The program may include any method of

2-1 communicating the need for safe use of fireworks and the dangers of
2-2 improper use. A program the advisory council proposes to present
2-3 must be approved by the commissioner.

2-4 (c) In order to fund the program established under this
2-5 section, the holder of the following licenses shall pay a fee, in
2-6 addition to any other license fee, in the following amounts:

2-7 (1) the holder of a retail permit issued under Section
2-8 8 of this article--\$10; and

2-9 (2) the holder of a manufacturer's, distributor's, or
2-10 jobber's license issued under Section 6 of this article--\$250.

2-11 (d) Funds collected under Subsection (c) of this section may
2-12 be used only by the commissioner for the purposes of this section.

2-13 SECTION 5. (a) This Act takes effect September 1, 1999.

2-14 (b) Section 16B, Article 5.43-4, Insurance Code, as added by
2-15 this Act, applies only to the issuance of or renewal of a retail
2-16 permit or manufacturer's, distributor's, or jobber's license issued
2-17 or renewed on or after September 1, 1999.

2-18 SECTION 6. The importance of this legislation and the
2-19 crowded condition of the calendars in both houses create an
2-20 emergency and an imperative public necessity that the
2-21 constitutional rule requiring bills to be read on three several
2-22 days in each house be suspended, and this rule is hereby suspended.

2-23 * * * * *

**FAVORABLE
SENATE COMMITTEE REPORT ON**

(SB) SCR SJR SR HB HCR HJR 939
By Senator Arm Brister
(Author/Senate Sponsor)
4-15-99
(date)

Sir:

We, your Committee on INTERGOVERNMENTAL RELATIONS, to which was referred the attached measure, have on 4-14-99, had the same under consideration and I am instructed to report it back with the recommendation (s) that it:

☒ do pass and be printed

☐ do pass and be ordered not printed

☒ and is recommended for placement on the Local and Uncontested Bills Calendar.

A fiscal note was requested. ☒ yes ☐ no

A revised fiscal note was requested. ☐ yes ☒ no

An actuarial analysis was requested. ☐ yes ☒ no

Considered by subcommittee. ☐ yes ☒ no

The measure was reported from Committee by the following vote:

| | YEA | NAY | ABSENT | PNV |
|------------------------------------|-------------------------------------|-----|--------|-----|
| Senator Frank Madla, Chairman | <input checked="" type="checkbox"/> | | | |
| Senator Jon Lindsay, Vice-Chairman | <input checked="" type="checkbox"/> | | | |
| Senator Rodney Ellis | <input checked="" type="checkbox"/> | | | |
| Senator Mike Moncrief | <input checked="" type="checkbox"/> | | | |
| Senator Drew Nixon | <input checked="" type="checkbox"/> | | | |
| TOTAL VOTES | 5 | 0 | 0 | 0 |

COMMITTEE ACTION

S260 Considered in public hearing

S270 Testimony taken

William Stephens
COMMITTEE CLERK

Frank Madla
CHAIRMAN

Paper clip the original and one copy of this signed form to the original bill
Retain one copy of this form for Committee files

WITNESS LIST

SB 939
SENATE COMMITTEE REPORT
Intergovernmental Relations Committee

April 14, 1999 - 8:30A

Registering, but not testifying:

For: Cain, Randy (TX Fire Chiefs Assoc.), Austin

Davis, Chester (President, American Fireworks), Bastrop

Glover, Sue (TX Assoc. of Counties), Austin

Mixon, Carl (Fire Marshal, Bexar Co.), San Antonio

Stearns, Zachary (TX Pyrotechnic Assoc.), Bastrop

Walker, Helen (Victoria Co., County Judges & Commissioners
Assoc. of TX), Austin

BILL ANALYSIS

Senate Research Center
76R5707 CAG-F

S.B. 939
By: Armbrister
Intergovernmental Relations
4/5/1999
As Filed

DIGEST

Currently, Texas law authorizes the commissioners court of a county to prohibit the use of aerial fireworks, upon determination that drought conditions exist. During the 72nd Legislature, legislation authorizing counties to prohibit or restrict the use of skyrockets with sticks and missiles passed. Since passage of this legislation, the counties and fireworks industry agree that changes are necessary to regulate more stringently ability of all counties to prohibit the use and sale of certain aerial fireworks during drought conditions. In 1997, H.B. 2049 authorized the Texas Forest Service to determine if a county faced drought conditions passed. Drought conditions are measured by objective scientific information and the use of the Keetch-Byram Index, a widely accepted method for measuring the lack of moisture in the soil. S.B. 939 would allow a county to prohibit or restrict the sale or use of certain fireworks, and would also create a Fireworks Safety and Education Program to be approved by the commissioner of insurance and to be funded by additional fees collected from the retailer, manufacturer, distributor, and jobber's licenses.

PURPOSE

As proposed, S.B. 939 prohibits the sale or use of certain restricted fireworks, and creates a fireworks safety and education program.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 240.904, Local Government Code, as follows:

Sec. 240.904. New heading: REGULATION OF RESTRICTED FIREWORKS.

SECTION 2. Amends Section 240.904(a)(1), Local Government Code, to redefine "restricted fireworks." Deletes text regarding pyrotechnic devices.

SECTION 3. Amends Sections 240.904(c), (f), and (g), Local Government Code, to authorize the commissioners court by order to prohibit or restrict the sale or use of restricted fireworks, rather than certain aerial fireworks, in all or a portion of the unincorporated area of the county. Requires a person selling any type of fireworks, including restricted fireworks, in a county that has adopted an order under Subsection (c) to provide notice of any location designated as a safe area. Makes conforming and nonsubstantive changes.

SECTION 4. Amends Article 5.43-4, Insurance Code, by adding Section 16B, as follows:

Sec. 16B. FIREWORKS SAFETY AND EDUCATION PROGRAM. Requires the commissioner of insurance (commissioner) to establish a fireworks safety and education program (program). Requires the program to provide information relating to the proper and safe use of fireworks and the dangers of the improper use of fireworks. Requires a program established under this section to be administered by the advisory council established under Section 5B of this article. Authorizes the program to include any method of communicating the need for safe use of fireworks and the dangers of improper use. Requires the commissioner to approve a program the advisory council proposes to present. Requires the holder of a certain license to pay a fee, in addition to any other license fee, in a certain amount, in order to fund the program established under this section. Authorizes funds collected under Subsection (c) of this section to be used only

by the commissioner for purposes of this section.

SECTION 5. Effective date: September 1, 1999. Provides that Section 16B, Article 5.43-4, Insurance Code, as added by this Act, applies only to the issuance of or renewal of a retail permit or manufacturer's, distributor's, or jobber's license issued or renewed on or after September 1, 1999.

SECTION 6. Emergency clause.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 76th Regular Session

March 29, 1999

TO: Honorable Frank Madla, Chair, Senate Committee on Intergovernmental Relations

FROM: John Keel, Director, Legislative Budget Board

IN RE: SB 939 by Armbrister (Relating to the safe use and regulation of fireworks.), As
Introduced

No significant fiscal implication to the State is anticipated.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 454 Department of Insurance, 304 Comptroller of Public Accounts

LBB Staff: JK, TL, DP

REQUEST FOR LOCAL & UNCONTESTED CALENDAR PLACEMENT

SENATOR CHRIS HARRIS, CHAIRMAN
SENATE COMMITTEE ON ADMINISTRATION

Notice is hereby given that SB 939, by: Senator Armbrister,
(Bill No.) (Author/Sponsor)

was heard by the IGR Committee on 4-14, 1999,

and reported out with the recommendation that it be placed on the Local and Uncontested Calendar.

William Stephens
(Clerk of the reporting committee)

IMPORTANT: THE YELLOW COPY OF THIS FORM AND (1) COPY OF YOUR BILL OR RESOLUTION
(COMMITTEE PRINTED VERSION) MUST BE DELIVERED TO THE ADMINISTRATION OFFICE,
E1.714. DEADLINES FOR SUBMITTING BILLS WILL BE ANNOUNCED ON A REGULAR BASIS.

Committee Clerks: Original to Calendar Clerk. Pink copy for committee files. Green and yellow copies to bill author/sponsor.
Author/Sponsor: Green copy for office files. Submit yellow copy to Administration with your bill.

30

April 26 1999 Engrossed

Ratsy Spaw
Engrossing Clerk

Will file to be printed and
copy of the bill will be
forwarded to the printer.

For Clerk of the House

By: Armbrister
(Goolsby)

S.B. No. 939

A BILL TO BE ENTITLED
AN ACT

relating to the safe use and regulation of fireworks.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The heading of Section 240.904, Local Government Code, is amended to read as follows:

Sec. 240.904. REGULATION OF RESTRICTED ~~[CERTAIN]~~ FIREWORKS.

SECTION 2. Subdivision (1), Subsection (a), Section 240.904, Local Government Code, is amended to read as follows:

(1) "Restricted ~~[Aerial]~~ fireworks" means only those items classified under 49 C.F.R. Sec. 173.100(r)(2) (10-1-86 edition), as "skyrockets with sticks" and "missiles with fins" ~~[other--pyrotechnic--devices--that--have--fins--or--rudders--for--the purpose--of--achieving--aerodynamic--flight,--including--devices--that would--be--considered--a--missile--or--a--rocket]~~.

SECTION 3. Subsections (c), (f), and (g), Section 240.904, Local Government Code, are amended to read as follows:

(c) Upon a determination under this section that drought conditions exist within all or part of a specified county, the commissioners court of such county by order may prohibit or restrict the sale or use of restricted ~~[certain-aerial]~~ fireworks in all or a portion of the unincorporated area of the county where drought conditions have been determined to exist. In addition, during the December fireworks season, the commissioners court of a county by order may restrict or prohibit the sale or use of restricted ~~[certain--aerial]~~ fireworks in specified areas when

1 conditions on rural acreage in the county not under cultivation for
2 a period of at least 12 months are determined to be extremely
3 hazardous for the danger of fire because of high grass or dry
4 vegetation.

5 (f) The county may designate one or more areas of
6 appropriate size and accessibility in the county as safe areas
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8 The safe area may be provided by the county, a municipality within
9 the county, or an individual, business, or corporation. A safe
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11 the regulatory jurisdiction of a municipality if the activity
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16 corporation is not liable for injuries or damages resulting from
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19 including restricted ~~[or-other]~~ fireworks, in a county that has
20 adopted an order under Subsection (c) shall, at every location at
21 which the person sells fireworks in the county, provide reasonable
22 notice of the order and reasonable notice of any location
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25 adding Section 16B to read as follows:

26 Sec. 16B. FIREWORKS SAFETY AND EDUCATION PROGRAM. (a) The

1 commissioner shall establish a fireworks safety and education
2 program. The program shall provide information relating to the
3 proper and safe use of fireworks and the dangers of the improper
4 use of fireworks.

5 (b) A program established under this section shall be
6 administered by the advisory council established under Section 5B
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12 section, the holder of the following licenses shall pay a fee, in
13 addition to any other license fee, in the following amounts:

14 (1) the holder of a retail permit issued under Section
15 8 of this article--\$10; and

16 (2) the holder of a manufacturer's, distributor's, or
17 jobber's license issued under Section 6 of this article--\$250.

18 (d) Funds collected under Subsection (c) of this section may
19 be used only by the commissioner for the purposes of this section.

20 SECTION 5. (a) This Act takes effect September 1, 1999.

21 (b) Section 16B, Article 5.43-4, Insurance Code, as added by
22 this Act, applies only to the issuance of or renewal of a retail
23 permit or manufacturer's, distributor's, or jobber's license issued
24 or renewed on or after September 1, 1999.

25 SECTION 6. The importance of this legislation and the
26 crowded condition of the calendars in both houses create an

S.B. No. 939

1 emergency and an imperative public necessity that the
2 constitutional rule requiring bills to be read on three several
3 days in each house be suspended, and this rule is hereby suspended.

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Austin, Texas

FISCAL NOTE, 76th Regular Session

March 29, 1999

TO: Honorable Frank Madla, Chair, Senate Committee on Intergovernmental Relations

FROM: John Keel, Director, Legislative Budget Board

IN RE: SB 939 by Armbrister (Relating to the safe use and regulation of fireworks.), As
Introduced

| |
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| No significant fiscal implication to the State is anticipated. |
|--|

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 454 Department of Insurance, 304 Comptroller of Public Accounts
LBB Staff: JK, TL, DP

5

HOUSE COMMITTEE REPORT

1st Printing

93 MAY -6 PM 9:20
HOUSE OF REPRESENTATIVES

By: Armbrister
(Goolsby)

S.B. No. 939

A BILL TO BE ENTITLED

AN ACT

1 relating to the safe use and regulation of fireworks.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

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10 edition), as "skyrockets with sticks" and "missiles with fins"
11 [~~other--pyrotechnic--devices--that--have--fins--or--rudders--for--the~~
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20 in all or a portion of the unincorporated area of the county where
21 drought conditions have been determined to exist. In addition,
22 during the December fireworks season, the commissioners court of a
23 county by order may restrict or prohibit the sale or use of
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6 appropriate size and accessibility in the county as safe areas
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1 commissioner shall establish a fireworks safety and education
2 program. The program shall provide information relating to the
3 proper and safe use of fireworks and the dangers of the improper
4 use of fireworks.

5 (b) A program established under this section shall be
6 administered by the advisory council established under Section 5B
7 of this article. The program may include any method of
8 communicating the need for safe use of fireworks and the dangers of
9 improper use. A program the advisory council proposes to present
10 must be approved by the commissioner.

11 (c) In order to fund the program established under this
12 section, the holder of the following licenses shall pay a fee, in
13 addition to any other license fee, in the following amounts:

14 (1) the holder of a retail permit issued under Section
15 8 of this article--\$10; and

16 (2) the holder of a manufacturer's, distributor's, or
17 jobber's license issued under Section 6 of this article--\$250.

18 (d) Funds collected under Subsection (c) of this section may
19 be used only by the commissioner for the purposes of this section.

20 SECTION 5. (a) This Act takes effect September 1, 1999.

21 (b) Section 16B, Article 5.43-4, Insurance Code, as added by
22 this Act, applies only to the issuance of or renewal of a retail
23 permit or manufacturer's, distributor's, or jobber's license issued
24 or renewed on or after September 1, 1999.

25 SECTION 6. The importance of this legislation and the
26 crowded condition of the calendars in both houses create an

S.B. No. 939

1 emergency and an imperative public necessity that the
2 constitutional rule requiring bills to be read on three several
3 days in each house be suspended, and this rule is hereby suspended.

COMMITTEE REPORT

The Honorable James E. "Pete" Laney
Speaker of the House of Representatives

5-3-99
(date)

Sir:

We, your COMMITTEE ON STATE AFFAIRS

to whom was referred SB 939 have had the same under consideration and beg to report back with the recommendation that it

- ☒ do pass, without amendment.
☐ do pass, with amendment(s).
☐ do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.
☒ yes ☐ no A fiscal note was requested.
☐ yes ☒ no A criminal justice policy impact statement was requested.
☐ yes ☒ no An equalized educational funding impact statement was requested.
☐ yes ☒ no An actuarial analysis was requested.
☐ yes ☒ no A water development policy impact statement was requested.
☐ yes ☒ no A tax equity note was requested.
☒ The Committee recommends that this measure be sent to the Committee on Local and Consent Calendars.

For Senate Measures: House Sponsor Goolsby, Tony

Joint Sponsors: _____

Co-Sponsors: _____

The measure was reported from Committee by the following vote:

| | AYE | NAY | PNV | ABSENT |
|------------------------|-----|-----|-----|--------|
| Wolens, Chair | ✓ | | | |
| Turner, S., Vice-chair | ✓ | | | |
| Alvarado | | | | ✓ |
| Bailey | ✓ | | | |
| Brimer | ✓ | | | |
| Counts | | | | ✓ |
| Craddick | | | | ✓ |
| Danburg | ✓ | | | |
| Hilbert | ✓ | | | |
| Hunter | ✓ | | | |
| Jones, D. | | | | ✓ |
| Longoria | ✓ | | | |
| McCall | ✓ | | | |
| Marchant | ✓ | | | |
| Merritt | | | | ✓ |

Total

10 aye
0 nay
0 present, not voting
5 absent

CHAIR

BILL ANALYSIS

Office of House Bill Analysis

S.B. 939
By: Armbrister
State Affairs
4-29-1999
Engrossed

BACKGROUND AND PURPOSE

Under current law, counties are not granted authority to prohibit the sale of restricted fireworks, which include fireworks known as "skyrockets with sticks" and "missiles with fins." S.B. 939 allows a county to prohibit the sale of restricted fireworks during drought conditions. This bill also creates a fireworks safety and education program which must be approved by the Commissioner of Insurance. This bill provides for the funding of this program from the additional collection of licensing fees from firework retailers, manufacturers, distributors, and jobbers.

RULEMAKING AUTHORITY

It is the opinion of the Office of House Bill Analysis that this bill does not expressly delegate any additional rulemaking authority to a state officer, department, agency, or institution.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends the heading of Section 240.904, Local Government Code, as follows:

Sec. 240.904. New title: REGULATION OF RESTRICTED FIREWORKS. Deletes "certain" from existing title.

SECTION 2. Amends Section 240.904(a)(1), Local Government Code, to define "restricted fireworks" and to delete the definition of "aerial fireworks."

SECTION 3. Amends Sections 240.904(c), (f), and (g), Local Government Code, as follows:

(c) Authorizes the commissioners court of a county that determines that drought conditions exist within the county to prohibit or restrict, by order, the sale or use of restricted fireworks in the area where drought conditions exist. Makes conforming changes.

(f) Makes conforming changes.

(g) Makes conforming changes.

SECTION 4. Amends Article 5.43-4, Insurance Code, by adding Section 16B, as follows:

Sec. 16B. FIREWORKS SAFETY AND EDUCATION PROGRAM. (a) Requires the Commissioner of Insurance (commissioner) to establish a fireworks safety and education program. Requires the program to provide information relating to the proper and safe use of fireworks and the dangers of the improper use of fireworks.

(b) Requires a program to be administered by the advisory council established under Section 5B (Advisory Council) of this article. Authorizes the program to include any method of communicating the need for safe use of fireworks and the dangers of improper use. Provides that a program which the advisory council proposes to present must be approved by the commissioner.

(c) Specifies fees required to be collected in order to fund the program established under this section.

(d) Authorizes the commissioner to use the funds collected under Subsection (c) only for the purposes of this section.

SECTION 5. (a) Effective date: September 1, 1999.
(b) Makes application of this Act prospective.

SECTION 6. Emergency clause.

SUMMARY OF COMMITTEE ACTION

SB 939

May 3, 1999 2:00PM or upon adjournment
Considered in public hearing
Reported favorably without amendment(s)
Recommended to be sent to Local & Consent

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 76th Regular Session

May 6, 1999

TO: Honorable Steven Wolens, Chair, House Committee on State Affairs

FROM: John Keel, Director, Legislative Budget Board

IN RE: SB939 by Armbrister (relating to the safe use and regulation of fireworks), **As Engrossed**

No significant fiscal implication to the State is anticipated.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: JK, BB

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 76th Regular Session

March 29, 1999

TO: Honorable Frank Madla, Chair, Senate Committee on Intergovernmental Relations

FROM: John Keel, Director, Legislative Budget Board

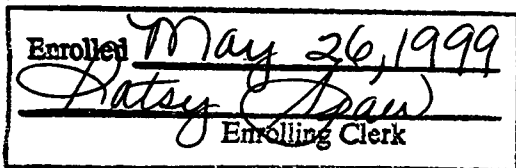
IN RE: SB 939 by Armbrister (Relating to the safe use and regulation of fireworks.), As
Introduced

| |
|--|
| No significant fiscal implication to the State is anticipated. |
|--|

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 454 Department of Insurance, 304 Comptroller of Public Accounts
LBB Staff: JK, TL, DP



S.B. No. 939

AN ACT

1 relating to the safe use and regulation of fireworks.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

3 SECTION 1. The heading of Section 240.904, Local Government
4 Code, is amended to read as follows:

5 Sec. 240.904. REGULATION OF RESTRICTED [~~CERTAIN~~] FIREWORKS.

6 SECTION 2. Subdivision (1), Subsection (a), Section 240.904,
7 Local Government Code, is amended to read as follows:

8 (1) "Restricted [~~Aerial~~] fireworks" means only those
9 items classified under 49 C.F.R. Sec. 173.100(r)(2) (10-1-86
10 edition), as "skyrockets with sticks" and "missiles with fins"
11 [~~other--pyrotechnic--devices--that--have--fins--or--rudders--for--the~~
12 ~~purpose--of--achieving--aerodynamic--flight,--including--devices--that~~
13 ~~would-be-considered-a-missile-or-a-rocket~~].

14 SECTION 3. Subsections (c), (f), and (g), Section 240.904,
15 Local Government Code, are amended to read as follows:

16 (c) Upon a determination under this section that drought
17 conditions exist within all or part of a specified county, the
18 commissioners court of such county by order may prohibit or
19 restrict the sale or use of restricted [~~certain-aerial~~] fireworks
20 in all or a portion of the unincorporated area of the county where
21 drought conditions have been determined to exist. In addition,
22 during the December fireworks season, the commissioners court of a
23 county by order may restrict or prohibit the sale or use of
24 restricted [~~certain--aerial~~] fireworks in specified areas when

1 conditions on rural acreage in the county not under cultivation for
2 a period of at least 12 months are determined to be extremely
3 hazardous for the danger of fire because of high grass or dry
4 vegetation.

5 (f) The county may designate one or more areas of
6 appropriate size and accessibility in the county as safe areas
7 where the use of restricted ~~[aerial]~~ fireworks is not prohibited.
8 The safe area may be provided by the county, a municipality within
9 the county, or an individual, business, or corporation. A safe
10 area may be designated in and provided in the geographic area of
11 the regulatory jurisdiction of a municipality if the activity
12 conducted in the safe area is authorized by general law or a
13 municipal regulation or ordinance. An area is considered safe if
14 adequate public safety and fire protection services are provided to
15 the area. A county, municipality, individual, business, or
16 corporation is not liable for injuries or damages resulting from
17 the designation, maintenance, or use of the safe area.

18 (g) A person selling any type of ~~[aerial]~~ fireworks,
19 including restricted ~~[or-other]~~ fireworks, in a county that has
20 adopted an order under Subsection (c) shall, at every location at
21 which the person sells fireworks in the county, provide reasonable
22 notice of the order and reasonable notice of any location
23 designated under Subsection (f) as a safe area.

24 SECTION 4. Article 5.43-4, Insurance Code, is amended by
25 adding Section 16B to read as follows:

26 Sec. 16B. FIREWORKS SAFETY AND EDUCATION PROGRAM. (a) The

commissioner shall establish a fireworks safety and education program. The program shall provide information relating to the proper and safe use of fireworks and the dangers of the improper use of fireworks.

(b) A program established under this section shall be administered by the advisory council established under Section 5B of this article. The program may include any method of communicating the need for safe use of fireworks and the dangers of improper use. A program the advisory council proposes to present must be approved by the commissioner.

(c) In order to fund the program established under this section, the holder of the following licenses shall pay a fee, in addition to any other license fee, in the following amounts:

(1) the holder of a retail permit issued under Section 8 of this article--\$10; and

(2) the holder of a manufacturer's, distributor's, or jobber's license issued under Section 6 of this article--\$250.

(d) Funds collected under Subsection (c) of this section may be used only by the commissioner for the purposes of this section.

SECTION 5. (a) This Act takes effect September 1, 1999.

(b) Section 16B, Article 5.43-4, Insurance Code, as added by this Act, applies only to the issuance of or renewal of a retail permit or manufacturer's, distributor's, or jobber's license issued or renewed on or after September 1, 1999.

SECTION 6. The importance of this legislation and the crowded condition of the calendars in both houses create an

S.B. No. 939

1 emergency and an imperative public necessity that the
2 constitutional rule requiring bills to be read on three several
3 days in each house be suspended, and this rule is hereby suspended.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 939 passed the Senate on
April 26, 1999, by the following vote: Yeas 30, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 939 passed the House on
May 25, 1999, by a non-record vote.

Chief Clerk of the House

Approved:

Date

Governor

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 76th Regular Session

May 6, 1999

TO: Honorable Steven Wolens, Chair, House Committee on State Affairs

FROM: John Keel, Director, Legislative Budget Board

IN RE: SB939 by Armbrister (relating to the safe use and regulation of fireworks), As
Engrossed

No significant fiscal implication to the State is anticipated.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: JK, BB

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 76th Regular Session

March 29, 1999

TO: Honorable Frank Madla, Chair, Senate Committee on Intergovernmental Relations

FROM: John Keel, Director, Legislative Budget Board

IN RE: SB 939 by Armbrister (Relating to the safe use and regulation of fireworks.), As
Introduced

| |
|--|
| No significant fiscal implication to the State is anticipated. |
|--|

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 454 Department of Insurance, 304 Comptroller of Public Accounts

LBB Staff: JK, TL, DP

S.B. No. 939

By Conrad

A BILL TO BE ENTITLED

AN ACT:

Relating to the safe use and regulation of fireworks.

3-5-99

Filed with the Secretary of the Senate

MAR 08 1999

Read and referred to Committee on INTERGOVERNMENTAL RELATIONS

APR 15 1999

Reported favorably

Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.

Ordered not printed

APR 26 1999

Laid before the Senate

Senate and Constitutional Rules to permit consideration suspended by:

{ unanimous consent

{ ____ yeas, ____ nays

APR 26 1999

Read second time, _____, and ordered engrossed by:

{ unanimous consent

{ ~~a viva voce vote~~

{ ____ yeas, ____ nays

APR 26 1999

Senate and Constitutional 3 Day Rule suspended by a vote of 30 yeas, 0 nays.

APR 26 1999

Read third time, _____, and passed by:

{ ~~A viva voce vote~~

{ 30 yeas, 0 nays

Lucy King
SECRETARY OF THE SENATE

OTHER ACTION:

April 26, 1999

Engrossed

April 26, 1999

Sent to House

Engrossing Clerk

Patricia Spaw

APR 26 1999

Received from the Senate

APR 27 1999

Read first time and referred to Committee on State Affairs

MAY 03 1999

Reported ____ favorably (~~as amended~~) (~~as substituted~~)

MAY 07 1999

Sent to Committee on (~~Calendars~~) (Local & Consent Calendars)

MAY 25 1999

Read second time (~~comm. subst.~~) (~~amended~~); passed to third reading (~~failed~~) by a (non-record vote) (~~record vote of~~ ____ yeas, ____ nays, ____ present, not voting)

Constitutional rule requiring bills to be read on three several days suspended (failed to suspend) by a vote of ____ yeas, ____ nays, ____ present, not voting.

MAY 25 1999

Read third time (~~amended~~); finally passed (~~failed to pass~~) by a (non-record vote) (~~record vote of~~ ____ yeas, ____ nays, ____ present, not voting)

MAY 26 1999

Returned to Senate.

Sharon Carter

CHIEF CLERK OF THE HOUSE

MAY 26 1999

Returned from House without amendment.

Returned from House with ____ amendments.

Concurred in House amendments by a viva voce vote ____ yeas, ____ nays.

_____ Refused to concur in House amendments and requested the appointment of a Conference Committee to adjust the differences.

_____ Senate conferees instructed.

_____ Senate conferees appointed: _____, Chairman; _____
_____, _____, and _____

_____ House granted Senate request. House conferees appointed: _____, Chairman;
_____, _____, _____

_____ Conference Committee Report read and filed with the Secretary of the Senate.

_____ Conference Committee Report adopted on the part of the House by: _____

{ a viva voce vote
_____ yeas, _____ nays

_____ Conference Committee Report adopted on the part of the Senate by:

{ a viva voce vote
_____ yeas, _____ nays

OTHER ACTION:

_____ Recommitted to Conference Committee

_____ Conferees discharged.

_____ Conference Committee Report failed of adoption by: _____

{ a viva voce vote
_____ yeas, _____ nays

99 MAY -6 PM 9:29
HOUSE OF REPRESENTATIVES

145